

**Exhibits
To**

**Defendant Southwest Neurology, P.C.'s
Notice of Removal**

Ernest Williams v. Southwest Neurology, P.C.

Exhibit:

- A. Civil Cover Sheet, Summons dated April 20, 2015, Complaint dated April 14, 2015, and Certificate Re: Compulsory Arbitration dated April 14, 2015

EXHIBIT A

In the Superior court of the State of Arizona
In and For the County of Mohave

Case Number CV 2015-07097

CIVIL COVER SHEET – NEW FILING ONLY

(Please type or Print)

Richard K. Mahrle

Plaintiff's Attorney Heather T. Horrocks

005166

Attorney's Bar Number 029190

Plaintiff's Name(s): (List all)

Ernest Williams

Plaintiff's Address:

c/o Gammage & Burnham

2 North Central Avenue, 15th Floor

Phoenix, Arizona 85004

(List additional plaintiffs on page two and/or attach a separate sheet)

Defendant's Name(s): (List All)

Southwest Neurology, P.C.

(List additional defendants on page two and/or attach a separate sheet)

EMERGENCY ORDER SOUGHT: ☐ Temporary Restraining Order ☐ Provisional Remedy ☐ OSC

☐ Election Challenge ☐ Employer Sanction ☐ Other _____

(Specify)

☒ RULE 8(i) COMPLEX LITIGATION DOES NOT APPLY. (Mark appropriate box under Nature of Action)

☐ RULE 8(i) COMPLEX LITIGATION APPLIES. Rule 8(i) of the rules of Civil Procedure defines a "Complex Case" as civil actions that require continuous judicial management. A typical case involves a large number of witnesses, a substantial amount of documentary evidence, and a large number of separately represented parties.

(Mark appropriate box on page two as to complexity, in addition to the Nature of Action case category).

NATURE OF ACTION

(Place an "X" next to the one case category that most accurately describes your primary case.)

TORT MOTOR VEHICLE:

☐ Non-Death/Personal Injury

☐ Property Damage

☐ Wrongful Death

TORT NON-MOTOR VEHICLE:

☐ Negligence

☐ Product Liability - Asbestos

☐ Product Liability - Tobacco

☐ Product Liability - Toxic/Other

☐ Intentional Tort

☐ Property Damage

☐ Legal Malpractice

☐ Malpractice – Other professional

☐ Premises Liability

☐ Slander/Libel/Defamation

☐ Other (Specify) _____

MEDICAL MALPRACTICE:

☐ Physician M.D.

☐ Hospital

☐ Physician D.O.

☐ Other

CONTRACTS:

☐ Account (Open or Stated)

☐ Promissory Note

☐ Foreclosure

☐ Buyer-Plaintiff

☐ Fraud

☐ Other Contract (i.e. Breach of Contract)

☐ Excess Proceeds-Sale

☐ Construction Defects (Residential/Commercial)

☐ ☐ Six to Nineteen Structures

☐ ☐ Twenty or More Structures

OTHER CIVIL CASE TYPES:

☐ Eminent Domain/Condemnation

OTHER CIVIL CASE TYPES (Continued)

- ☐ Eminent Domain/Condemnation
☐ Eviction Actions (Forcible and Special Detainers)
☐ Change of Name
☐ Transcript of Judgment
☐ Foreign Judgment
☐ Quiet Title
☐ Forfeiture
☐ Election Challenge
☐ NCC – Employer Sanction Action (A.R.S. §23-212)
☐ Injunction against Workplace Harassment
☐ Injunction against Harassment
☐ Civil Penalty
☐ Water Rights (Not General Stream Adjudication)
☐ Real Property
☐ Sexually Violent Person (A.R.S. §36-3704)
 (Except Maricopa County)
☐ Minor Abortion (See Juvenile in Maricopa County)
☐ Special Action Against Lower Courts
 (See lower court appeal cover sheet in Maricopa)

UNCLASSIFIED CIVIL:

- ☐ Administrative Review
 (See lower court appeal cover sheet in Maricopa)
☐ Tax Appeal
 (All other tax matters must be filed in the AZ Tax Court)

UNCLASSIFIED CIVIL (Continued)

- ☐ Declaratory Judgment
☐ Habeas corpus
☐ Landlord Tenant Dispute - Other
☐ Restoration of civil Rights (Federal)
☐ Clearance of Records (A.R.S. §13-4051)
☐ Declaration of Factual Innocence (A.R.S. §12-771)
☐ Declaration of Factual Improper Party Status
☐ Vulnerable Adult (A.R.S. §46-451)
☐ Tribal Judgment
☐ Structured Settlement (A.R.S. §12-2901)
☐ Attorney Conservatorships (State Bar)
☐ Unauthorized Practice of Law (State Bar)
☐ Out-of-State Deposition for Foreign Jurisdiction
☐ Secure Attendance of Prisoner
☐ Assurance of Discontinuance
☐ In-State Deposition for Foreign Jurisdiction
☐ Eminent Domain – Light Rail Only
☐ Interpleader – Automobile Only
☐ Delayed Birth Certificate (A.R.S. §36-333.03)
☐ Employment Dispute - discrimination
☒ Employment dispute - Other
☐ Other _____

(Specify)

COMPLEXITY OF THE CASE

If you marked the box on page one indicating that Complex Litigation applies, place an "X" in the box of no less than one of the following:

- ☐ Antitrust/Trade Regulation
☐ Construction Defect with many parties or structures
☐ Mass Tort
☐ Securities Litigation with many parties
☐ Environmental Toxic Tort with many parties
☐ Class Action Claims
☐ Insurance Coverage Claims arising from the above-listed case types
☐ A Complex Case as defined by rule 8(i) ARCP

Additional Plaintiff(s)

Additional Defendant(s)

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Heather T. Horrocks #029190
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ATTORNEYS AT LAW
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Attorneys for Plaintiff

FOR CLERKS USE ONLY

SUPERIOR COURT OF ARIZONA MOHAVE COUNTY

ERNEST WILLIAMS,

Plaintiff,

vs.

SOUTHWEST NEUROLOGY, P.C., an Arizona
professional corporation,

Defendant.

No. CW 2015-07091

SUMMONS

WARNING: This is an official document from the court. It affects your rights.
Read this document carefully. If you do not understand it, contact a lawyer for help.

FROM THE STATE OF ARIZONA TO: SOUTHWEST NEUROLOGY, P.C.
(Name of Defendant)

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this Summons.
2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the Court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his or her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court, 401 East Spring Street, Kingman, AZ 86401 (P.O. Box 7000, Kingman, AZ 86402-7000) or the Office of the Clerk of the Superior Court, 2225 Trane Road, Bullhead City, AZ 86442, or Office of the Clerk of the Superior Court, 2001 College Drive, Lake Havasu City, AZ 86404. Mail a copy of your "Answer" or "Response" to the other party at the address listed on the top of this Summons.
3. If this Summons and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS, starting the day after you were served. If this "Summons" and other court papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your "Response" must be filed within THIRTY (30) CALENDAR DAYS, starting the day after you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete (30) days after the date of the first publication.
4. You can get a copy of the court papers filed in this case from the Petitioner at the address at the top of this paper, or from the Clerk of the Superior Court at the address listed in Paragraph 2 above.
5. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least (5) five days before your scheduled court date.

SIGNED AND SEALED this date: 4/30/15

VIRLYNN TINNELL,
Clerk of the Superior Court

By: UBenark
Deputy Clerk



FILED

BY: _____

2015 APR 20 PM 2:51

VIRLYNN TINNELL
SUPERIOR COURT CLERK

1 Richard K. Mahrle #005166
2 Heather T. Horrocks #029190
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SUPERIOR COURT OF ARIZONA
MOHAVE COUNTY

11 ERNEST WILLIAMS,

12 Plaintiff,

13
14 vs.

15 SOUTHWEST NEUROLOGY, P.C., an
16 Arizona professional corporation,

17 Defendant.

No. CV 2015 07097

COMPLAINT

18 Plaintiff, for his cause of action, alleges as follows:

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GENERAL ALLEGATIONS

21 1. Ernest Williams ("Williams") is a resident of Mohave County, State of
22 Arizona.

23 2. Southwest Neurology, P.C., ("Southwest") is a corporation organized under
24 the laws of the State of Arizona. Southwest's principal place of business is in Mohave
25 County, State of Arizona.

4. Southwest has caused events to occur in Mohave County that have damaged Williams.

COUNT ONE

(FLSA)

5. Williams incorporates the General Allegations of this Complaint as if fully set forth herein.

6. The Fair Labor Standards Act (“FLSA”) sets standards for overtime compensation. 29 U.S.C. § 201, et seq.

7. Those standards include the requirement that if non-exempt employees work more than 40 hours in a workweek, those employees are entitled to one and a half times their regular rate of pay. 29 U.S.C. § 207.

8. Williams was an hourly, non-exempt employee under the FLSA. *See* 29 U.S.C. § 213.

9. In this case, while Williams was employed by Southwest, he routinely worked more than 40 hours in a workweek.

10. Southwest failed to comply with its statutory obligation to pay Williams for his overtime hours according to the rate set forth in the FLSA.

11. Williams, therefore, should have received one and a half times his regular rate of pay for each of those additional hours.

COUNT TWO

(AWA)

12. Williams incorporates the General Allegations of this Complaint as if fully set forth herein.

13. The Arizona Wage Act, codified at A.R.S. §§ 23-350, *et seq.* (“AWA”), states that overtime must be paid no later than 16 days after the end of the most recent pay period. A.R.S. § 23-351(C)(3).

14. The AWA also states that if an employer fails to pay the wages of any employee within the proscribed time period, the employee may bring an action and collect treble damages. A.R.S. § 23-355.

15. “Wages,” under A.R.S. § 23-350, include “sick pay, vacation pay, severance pay, commissions, bonuses and other amounts promised when the employer has a policy or a practice of making such payments.”

16. Southwest provided a policy manual to Williams.

17. Southwest’s policy manual stated that “[b]eginning after the end of the third (3rd) year of employment, employees will receive ten (10) days of paid vacation leave (based on a 35 hour work week).” *See* Exhibit A.

18. Williams took two weeks’ vacation in 2011, 2012, 2013 and 2014.

19. Southwest only paid Williams for one week of vacation in 2011, and did not pay Williams anything during the following years.

20. Williams also routinely worked more than 40 hours a week during his employment with Southwest.

21. Southwest failed to pay Williams his overtime.

22. Southwest’s failure to lawfully compensate Williams constitutes a violation of the AWA, and subjects Southwest to treble damages.

COUNT THREE

(Breach of Contract)

23. Williams incorporates the General Allegations of the Complaint as if fully set forth herein.

24. Southwest provided a policy manual to all of its employees.

25. In the policy manual, Southwest promised to pay eligible employees for two weeks of vacation each year.

26. Williams took his vacation in 2011-2014, but was only paid for one week in 2011.

27. Southwest breached its contract with Williams by failing to pay him for his vacation time.

WHEREFORE, Williams prays for Judgment against Southwest for:

A. Plaintiffs' damages in an amount to be determined at trial;

B. Costs incurred in this action, including Plaintiffs' attorneys' fees pursuant to A.R.S. 12-341.01;

C. Such other and further relief as this Court deems proper.

DATED this 14th day of April, 2015.

GAMMAGE & BURNHAM P.L.C.

By: Richard K. Mahrle

Richard K. Mahrle
Heather T. Horrocks
Two North Central Avenue, 15th Floor
Phoenix, Arizona 85004
Attorneys for Plaintiff

EXHIBIT A

EMPLOYEE BENEFITS

Group Insurance

No Medical and Life
Insurance Provided

There is no health or life insurance provided by the Practice. Employees are encouraged to obtain their own insurance to provide coverage for illness or hospitalization, as well as death benefits for their beneficiaries.

Worker's Compensation

Worker's Compensation
Benefit Coverage Provided

Employees are protected against work related injuries through insurance provided by Practice. Any employee who is injured at work will receive coverage in accordance with the terms and conditions as stated in the policy. The policy is available with the Office Manager or Doctor Bennett.

Any personal injury sustained by an employee while working for the Practice on the premises or while engaged in Practice business, must be reported to the Office Manager and Doctor Bennett as soon as the injury occurs.

Unemployment Compensation

The Practice deposits with the State Department of Revenue a percentage of total payroll each quarter. This money is placed in a fund Administered by the State Department of Economic Security and may be utilized to pay unemployment benefits should an employee be terminated through no fault of their own.

Vacation Leave

Vacation Leave
Available After
Ninety Days of
Employment

After completion of the first year of employment, full-time employees are entitled to five-(5) days of paid vacation (based on a 35 hour work week). Any time off during the first year will be considered unpaid time off. Beginning after the end of the third (3rd) year of employment, employees will receive ten-(10) days of paid vacation leave (based on a 35 hour work week). Once leave time has been earned, employees are eligible to schedule paid vacation time off, subject to the following conditions:

- (a) Vacation requests are due prior to May 1 each year so that the vacation schedule can be prepared by the Office Manager. Two or more employees cannot take leave vacation time-off concurrently. Vacation time-off is generally considered on a first-come basis. However, in the event of duplicate requests, seniority will be used to determine who takes time first. After May 1 the first employee request will be honored and seniority will not take priority.
- (b) Vacation time should be scheduled and taken in one-day (8 hour) increments. Vacation time may not be taken in increments smaller than one work-day.
- (c) Vacation time should be taken within the year following its being earned.

- (d) Vacation time does not accrue during periods of absence that exceed four weeks for any cause.
- (e) An employee who is discharged or who leaves voluntarily is not entitled to any accrued vacation leave.

Sick Leave

No Paid Sick Time Off
Provided

Employees are encouraged to not miss work and there are no specified paid days off for sick time. Should it be necessary to miss a scheduled day of work employees are to call the Office Manager or Doctor Bennett to report the illness.

Personal Leave

No Paid Personal
Time Off Provided

Management understands the need for time off for personal business (i.e., doctor/dental appointments, court appearances, etc.). However, there are no paid personal days provided and it is expected that employees will handle these items on their own time during lunch, or before/after work. Time off during patient hours may be approved only by the Office Manager or Doctor Bennett and will be allowed only in extreme emergencies as leaving work is an inconsiderate action that creates problems for the doctor, patients and other staff.

Paid Holidays

Six Paid
Holidays Provided

Only full time employees working at least 35 hours per week (excluding part-time and temporary employees) are eligible for paid holidays (and only after one year of employment. Beginning the second (2nd) year of employment employees will receive a paid day off for the following holidays (paid at a rate of seven (7) hours per day off):

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

The following conditions apply to paid holidays:

- (a) If a holiday falls on a weekend, the preceding Friday or the following Monday will be given as a paid holiday.

FILED

BY: _____

2015 APR 20 PM 2:52

VIRLYNN TINNELL
SUPERIOR COURT CLERK

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14 **SUPERIOR COURT OF ARIZONA**

15 **MOHAVE COUNTY**

16 ERNEST WILLIAMS,

17 Plaintiff,

18 vs.

19 SOUTHWEST NEUROLOGY, P.C., an
20 Arizona professional corporation,

21 Defendant.

NO. CV 2015 07097

**CERTIFICATE RE: COMPULSORY
ARBITRATION**

22 The undersigned certifies that the largest award sought by plaintiffs, including
23 punitive damages, but excluding interest, attorneys' fees, and costs, does exceed the limit
24 set by local rule for compulsory arbitration. This case is not subject to Arbitration.

25 DATED this 14th day of April 2015.

26 GAMMAGE & BURNHAM, P.L.C.

By Richard K. Mahrle
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